

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:10-CV-659-MOC-DCK**

SYLVESTER C. JOHNSON,)
)
 Plaintiff,)
)
 v.)
)
 WAL-MART STORES EAST, L.P.,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER IS BEFORE THE COURT on the “Expedited Motion To Enlarge Defendant’s Expert Report Deadline” (Document No. 67). This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and is now ripe for review. Having carefully considered the motion, the record, and applicable authority, the undersigned will deny the motion.

Defendant’s “Expedited Motion...” (Document No. 67) was filed on October 11, 2012, seeking to extend Defendant’s Expert Report deadline of October 12, 2012. The undersigned issued an “Order” (Document No. 68) on October 12, 2012, directing Plaintiff to file an expedited response to the pending motion. Plaintiff filed a timely response on October 16, 2012, and *inter alia*, asserted that the pending motion was moot because Defendant served “Defendant’s Expert Witness Disclosure And Reports” (Document No. 69, pp.6-49) on October 12, 2012. (Document No. 69, p.1).

Defendant filed its “Reply Brief In Further Support Of Defendant Walmart’s Expedited Motion To Enlarge Its Expert Report Deadline” (Document No. 70) on October 18, 2012. Defendant’s “Reply Brief...” in support of its motion fails to address Plaintiff’s assertion that the

pending motion is moot, or to even acknowledge that it served Plaintiff with “Defendant’s Expert Witness Disclosure And Reports” (Document No. 69, pp.6-49) on October 12, 2012. In an effort to clarify the procedural status of the pending motion, the undersigned’s staff contacted Defendant’s counsel who contends that the pending motion is not moot.

The undersigned finds that Defendant timely served its “...Expert Witness Disclosure and Reports” on October 12, 2012, even though it filed an expedited motion on October 11, 2012 seeking to “extend Defendant’s Expert Report deadline.” (Document No. 67, p.1). Under these circumstances, it appears that the pending “Expedited Motion To Enlarge Defendant’s Expert Report Deadline” (Document No. 67) is indeed moot, and that Defendant’s “Reply Brief...” offers no specific argument to the contrary.

IT IS, THEREFORE, ORDERED that the “Expedited Motion To Enlarge Defendant’s Expert Report Deadline” (Document No. 67) is **DENIED AS MOOT**.

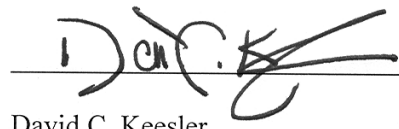
IT IS FURTHER ORDERED that the parties may supplement their Expert Reports as follows:

Plaintiff’s Expert Report Supplement: **October 26, 2012;**

Defendant’s Expert Report Supplement: **November 2, 2012.**

SO ORDERED.

Signed: October 18, 2012



David C. Keesler
United States Magistrate Judge

